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Attorneys for Defendant

JOHN J. COTA

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN J. COTA,

Defendant.

) Case No.: CR 08-0160 MAG

)

) STATUS CONFERENCE STATEMENT

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) Hearing Date: April 4, 2008

) Time: 10:30 a.m.

) Speedy Trial Act Date: May 30, 2008

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Introduction

Defendant John J. Cota made his initial appearance and was arraigned on March 21, 2008. The current Speedy Trial Act Date for Count One is May 30, 2008. The Speedy Trial Act does not apply to Count Two.

Discovery

On March 28, 2008, the government provided a DVD containing approximately 1.4 gigabytes of data or about 3 bankers' boxes of what was described as initial Rule 16 discovery. Captain Cota has requested additional discovery to include materials from the United States Coast Guard, especially as it relates to the Vessel Traffic Service and those materials relevant to the Coast Guard's on-going investigation into the causes of this incident. Captain Cota needs these materials to prepare for trial and believes that much of these materials are exculpatory.

The government has advised Captain Cota that there are a number of crew members from the Cosco Busan who have been detained under material witness warrants. Captain Cota understands the crew members are here on pursuant to a bond until May 31, 2008. The government further advises that the crews' attorneys are seeking to have their clients' depositions taken pursuant to FRCP Rule 15.

Captain Cota is concerned about his ability to effectively confront and cross-examine these witnesses. No Jencks materials have been provided in discovery and we are just beginning to review the documents produced on the DVD. In addition, there are potential language and communication issues that may necessitate an interpreter during cross-examination of these witnesses.

Suggested Trial Dates

Defendant therefore requests that this matter be set for trial expeditiously. This will obviate the need for Rule 15 depositions. We estimate that the case will take approximately 2-3 weeks. Extra time will be needed to pick a jury since the pretrial publicity to date – and the likelihood of further disclosures by the United States Coast Guard and/or other government agencies - will make it difficult (if not impossible) to find a fair and impartial jury panel.

We are therefore requesting that the case be set for trial as follows: Jury Selection and Pretrial Motions during the week of May 19, 2008 with trial to commence on Tuesday,

1 May 27, 2008. For scheduling purposes, one of Captain Cota's experts is unavailable from
2 May 18 to May 28, 2008 and June 13 to August 25, 2008. With respect to the later dates, he
3 teaches at a Maritime Academy and will be on a training cruise during that timeframe.

4 Captain Cota also requests that the matter be set for a settlement conference before a
5 Magistrate Judge.

6 Respectfully submitted,

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8 KIRKPATRICK & LOCKHART
9 PRESTON GATES ELLIS LLP

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11 Dated: April 2, 2008

By: /S/

12 JEFFREY L. BORNSTEIN
13 LEAH G. SHOUGH
14 Attorneys for JOHN J. COTA
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